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Conflicts of Values and Political Forgiveness

Citizens have a right to be governed by officials with an acute awareness of the conflicts between the constitutional values of liberal democracy. Such an awareness is an integral part of a public official's integrity. That is why citizens should have a say in deciding whether to remove from office an official with such integrity. In this article, this type of conflict between constitutional values is translated into the terms of an individual official's decision making with the help of moral theory. This yields two paradoxes: one focusing on the decision maker and the other on the object of his or her decisions: the citizen. These paradoxes lead to the following questions: If running a liberal democratic constitution essentially involves moral complexity, should we not try to have it run by officials with a sensitivity to that complexity? And if officials with that sensitivity are bound to commit moral wrongs because of complexity, do not we owe them something like political forgiveness? The paradoxes are used to formulate conditions for political forgiveness.

While the integrity of a public official is multifaceted and complex, it certainly includes the endorsement of values enshrined in the constitution that, in the words of the late John Rohr (1986), he or she has to “run.” But what if these values clash violently in a moral dilemma? Such is the predicament of the police officer in the following real-life case.

On September 27, 2002, Jakob von Metzler, son of a Frankfurt-based private banker, is kidnapped by 27-year-old law student Magnus Gäfgen. In a letter to Jakob's parents, Gäfgen demands a ransom of 1 million Euros. Two days later, the kidnapper is identified while collecting the money. The next day, on September 30, Gäfgen is arrested by the Frankfurt police. During interrogation, Gäfgen consistently misinforms his interrogators as to the whereabouts of Jakob. At one point, Gäfgen tells them to go and take a look at a cottage near a lake not far from Frankfurt. In the cottage, police officers find a bed with blood-stained blankets. They surmise that if Jakob is still alive, he is likely to be in serious danger.

In the early morning hours of October 1, 2002, all this is reported to the responsible officer, Wolfgang Daschner, vice president of the Frankfurt police. After 20 minutes of agonizing deliberation, Daschner orders Gäfgen's interrogators to threaten him with what is in effect a (relatively mild) form of torture. When the latter is confronted with the threat, he at once gives way. Gäfgen reveals that Jakob is no longer alive. On October 14, he gives a full confession. More than half a year later, on July 27, 2003, he is convicted for abduction and homicide. He is sent to prison for the rest of his life.

Having issued the order, Daschner informs the *Staatsanwalt*, or public prosecutor. The public prosecutor, who, according to German penal law, has no discretionary authority to decide whether or not to prosecute, has no choice but to start an investigation. Meanwhile, Daschner is demoted as a result of an internal disciplinary measure. His new task consists of performing menial administrative chores, awaiting his case to be examined in court. On February 20, 2004, Daschner is indicted, and in December of that year, he is convicted. The sentence is mild: he gets a conditional fine (*Verwarnung mit Strafvorbehalt*) of 10,800 euros. The relevant article of the German penal code (§ 59 *Strafgesetzbuch*), which is seldom applied, makes it possible to punish someone formally without punishing him materially. The newspapers aptly comment that Daschner has been convicted but not punished. The case again receives a lot of exposure in the German media in 2011. In August of that year, Gäfgen successfully seeks compensation for having been threatened with torture by the authorities: the state has to pay him 3,000 euros (*Frankfurter Allgemeine Zeitung*, October 10, 2012). A wave of public moral indignation washes over Germany. The reputable German weekly *Die Zeit* comments, “Rechtens, aber nicht richtig” (Legal, but not right) (*Die Zeit*, August 4, 2011).

Cases of this kind should make a citizen of any liberal democracy think—and think hard. Such a case brings

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1 sharp focus to the complex relationships between a society's moral
2 intuitions, its formal institutions, and the demands of everyday
3 administrative practice. The case may duly be characterized as a
4 tragic one. It is a defining feature of tragedies that their heroes come
5 to grief. So does Daschner. There is nothing we can do about that.

7 This article refuses to indulge such resignation. It hopes to flesh
8 out a justification for preserving officials like Daschner for public
9 service. Its aim, however, is primarily diagnostic. Its central conten-
10 tion is that in cases like Daschner's, we should redirect our attention
11 from the outcomes to the nature of the choice situation. It argues
12 that those officials who make themselves guilty of a moral wrong in
13 such conflicts have a right to be forgiven. The reason is that citizens
14 have a right to be governed by officials with an acute awareness of
15 the conflicts between the constitutional values of liberal democracy.
16 Such an awareness is an integral part of a public official's integ-
17 rity. That is why citizens should have a say in deciding whether to
18 remove from office an official with such integrity.

20 The argument unfolds as follows. The first step shows that the
21 conflict of values at the heart of liberal democracies is meant to
22 be there; it can even be considered a good thing. With the help of
23 moral theory, this type of conflict is translated into the terms of an
24 individual official's decision making. This yields two paradoxes: one
25 focusing on the decision maker and the other on the object of his
26 or her decisions: the citizen. These paradoxes lead to the following
27 questions: If running a liberal democratic constitution essentially
28 involves moral complexity, should we not try to have it run by
29 officials with a sensitivity to that complexity? And if officials with
30 that sensitivity are bound to commit moral wrongs because of com-
31 plexity, do not we owe them something like political forgiveness?
32 The paradoxes are then used to formulate conditions for political
33 forgiveness. For the purposes of the argument pursued here, I adopt
34 the existing technical term "political forgiveness" and define it as a
35 publicly performed performative speech act that aims to create the
36 possibility for an official to continue in office despite his or her vio-
37 lation of the moral values embodied in the constitution. However,
38 I can only start to explain the elements of this definition once the
39 paradoxes are in place.

41 Two caveats should be inserted before the argument starts. As indi-
42 cated, the purpose of this article is to find a justification for forgive-
43 ness, not institutional embodiments of political forgiveness. Second,
44 the real-life case serves mainly expository grounds. It does not try to
45 make a substantive moral point about the rightness or wrongness of
46 (the threat of) torture.

48 Liberal Democracy as an Expression of Value Pluralism

49 The point of calling a democracy "liberal" is to indicate that it is a
50 polity in which the rule by the majority is moderated, "tempered,"
51 or checked by mechanisms and institutions that are designed
52 to prevent popular tyranny. The ways of doing this are familiar:
53 prominently among them are individual rights and the separation of
54 powers.

56 This is, or should be, stock knowledge. However, because it is stock
57 knowledge, we tend to lose sight of it. What should be stressed here
58 is that the very label "liberal democracy" captures a deep conflict
59 that is at the heart of all constitutions deserving it. In the extreme

case, the individual, deserving the protection of his or her inalien-
able rights, stands alone against the overwhelming majority. If it
seeks redress in court, that frequently means a conflict of values has
been well under way for some time. Admittedly, this is not the only
type of conflict found in the running of a liberal democracy. But
what is important is that *this* type of conflict is hardwired into its
constitutional substance. Therefore, it is not just a quirk of fate that
such conflicts occur. On the contrary, it is part of the very purpose
of a liberal democracy. One could even say that this type of con-
flict of values is *itself* a good. It forces public officials to constantly
renegotiate constitutional priorities, thereby keeping the relevant
values alive.

Rights constrain the choices that individual officials have to make
because of their special status. This status is special in at least
two respects. In the first place, rights are (in the words of Ronald
Dworkin) "trumps" (Dworkin 1977). They have to have a particu-
larly strong claim against other kinds of value. Second, rights are
justified in a way that is nonconsequentialist. That is to say, rights
are conceived of as intrinsically valuable, not just because respect-
ing them has beneficial consequences. This is the reason rights are
often formulated in an absolute way. For instance, Article 2.2 of the
United Nations Convention Against Torture reads, "*No exceptional
circumstances whatsoever*, whether a state of war or a threat or war,
internal political instability or any other public emergency, may be
invoked as a justification of torture" (emphasis added).¹ Making
rights subject to the consequentialist (or utilitarian) calculus puts
them on a slippery slope—and a slippery slope is a "natural progres-
sion" toward humanitarian disaster (Williams 1985).

By contrast, the justification of general welfare claims is particularly
hospitable to utilitarian justification—which is why in modern
liberal democracies, utilitarianism is considered the "leading public
philosophy" (Goodin 1995). This means that pitting rights against
welfare claims not only results in a conflict between different kinds
of constitutional value in liberal democracy. It also means that we
have here a conflict between different patterns of *justification* of
those values. The strict absolutist will respect the intrinsic nature of
rights, regardless of the consequences, while the die-hard utilitarian
has to consider only their consequences. This means that the conflict
between individual rights and a democratic conception of the com-
mon good that is typical of liberal democracy is a manifestation of
a deeper conflict. The origin of this deeper conflict is moral or value
pluralism.² The central claim of value pluralism is that (1) our moral
universe contains a plurality of final ends that (2) may conflict in
such a way that no rational way out is possible (3) without remain-
der (Berlin 1969; Crowder 1994; Galston 2002, 2005; Hampshire
1983, 1989, 1999; Kekes 1993; Larmore 1987, 1996, 2008; Raz
1986; Williams 1981).

As to (1), a plurality of values is a presupposition of true moral
conflict. But that does not mean that the amount of final ends is
indefinite. Value pluralists usually hasten to point out that they are
not moral relativists. The latter hold that the value systems of differ-
ent cultures with specific moral outlooks cannot be rationally com-
pared with each other as a matter of principle. Value pluralists do
not claim that intercultural comparison is per se impossible. More
important for present purposes is (2). This clause tells us that true
moral conflict cannot be solved by practical reason. This is because

the values are *incommensurable*, which means that they cannot be rationally compared in terms of an overarching value. In other words, the logical structure of a moral dilemma rationally underdetermines the choice between its horns (Crowder 1994). Finally, the phrase “without remainder” in (3) refers to the fact that by picking any alternative, we make ourselves guilty of a moral wrong. For that reason, we shall, if we are relatively normally functioning human beings, be tormented by feelings of guilt, shame, and regret. Of course, such remainders would be preempted, in principle, if the dilemma could be solved in a rationally satisfactory manner. In that case, the choice problem simply vanishes.

Significantly, in newspaper interviews, Daschner described his decision as a *Güterabwägung* (a weighing of goods) (*Frankfurter Rundschau*, October 4, 2002). This is signal evidence that he was aware of the value-pluralist nature of the fix in which he found himself. If it had been a matter of “choosing the lesser of two evils,” it would not have been a dilemma. Choosing the lesser of two evils assumes a way to compare them in terms of a common measure. On such an interpretation, it is perfectly rational (in utilitarian terms) to choose the lesser evil. On Daschner’s own interpretation, however, he had to choose between two heterogeneous *goods*. He construed it as a choice between, on the one hand, the protection of an individual right and, on the other hand, a consequentialist task to protect the welfare of as many citizens as possible. That in his particular situation it was only one citizen does not alter the fact that the justifications of these values were fundamentally different. It was a tragic choice, and he deeply regretted having to make it.

Theories of value pluralism, however, address us as human beings rather than as inhabitants of a certain role or function. At least two emendations should be made to tailor value-pluralist dilemmas to the context of public organizations in a liberal democracy. In the first place, public decisions are typically taken in contexts of organizational hierarchy. Hierarchy, however, promotes moral contagion, both in upward and downward directions. Contagion sinks in the hierarchical structure because the decisions of superiors have to be carried out by subordinates. Dilemmas may be, and often are, delegated down the line. And when they are, they sometimes are transformed: Should one carry out the order or be disloyal? Should Daschner’s subordinates uncritically carry out his orders? The Adolf Eichmann case has shown that hierarchy and loyalty do not absolve the subordinate civil servant from moral responsibility (Arendt 1963). Moral contagion also travels upward, as formal structures of responsibility often have implications for superiors who have made no (direct) causal contribution to moral wrongs committed by subordinates. Second, many decisions made in organizations have implications that transcend the boundaries of these organizations. One should not forget that the criminal judge in Daschner’s case was facing a legal version of his dilemma. She could not possibly ignore the strictly absolutist claim of the first article of Germany’s Basic Law (to the effect that human dignity is inviolable, or *unantastbar*). On the other hand, she had to take into account the general police duty to protect German citizens (*Abwehrpflicht*). Organizational decisions often spill over into other organizations.

So much for stage setting. Enough material has been gathered to frame two paradoxes following from this value-pluralist interpretation of liberal democracy. It should be noted that the formulations

of the two paradoxes capture two different perspectives: one is the perspective of the official, the other that of the citizen. They are, in fact, two descriptions of one and the same state of affairs. What unites these paradoxes, despite their different perspectives, is the point that on a value-pluralist construction of liberal democracy, the public official not only has to be committed to the conflicting *values* but also to the *conflict* between these values. This may seem a quibble, but it is not. The point is that it matters to the integrity of an official who is *aware* that what he or she faces is in fact an insoluble conflict—which is why he or she has to have an appreciation of the heterogeneous nature of the (justification of the) values involved. It will turn out that this awareness plays a decisive role in answering the question of whether to mete out political forgiveness.

Two Paradoxes: Paradox 1

Unsurprisingly, the first paradox concerns the moral psychology of the official. The sense of the claim that the public official is committed to the conflict between liberal-democratic values is this: because moral conflict is extremely painful, individual agents have a natural psychological incentive to circumvent, evade, or deny it. In general, individuals will adopt strategies, whether conscious or not, to avoid moral conflict. This is not different in organizational contexts, which in some respects facilitate ways of dodging responsibility. Recognizing and dealing with moral conflict requires virtues such as truthfulness, courage, and competence, which indubitably belong to an official’s integrity (Nieuwenburg 2004). So does the responsiveness to moral conflict.

The first paradox, then, is this: although the conflict of values enshrined in liberal democracy may be a good thing from a constitutional point of view, it certainly is a bad thing from a psychological, subjective perspective. That is why it is meaningful to speak of a commitment to the conflict *itself*. But this paradox also shows why it is a non-negligible accomplishment to stand up to a moral dilemma. Even possession of the virtues of truthfulness and courage does not turn moral conflict into something easy to confront. Therefore, from the perspective of the official, strong reasons count against its acceptance. This is one reason not to take that acceptance as a matter of course. For it registers something that is really there: it is an institutional, even a constitutional fact (Searle 1995, 2010). And it is a requirement of integrity to take account of the facts—and to shape one’s actions accordingly.

Two Paradoxes: Paradox 2

The formulation of the second paradox requires that we take up the perspective of the citizen. What does it mean for citizens that public officials are aware of a commitment to conflicting values?

To throw the importance of this awareness into relief, let us think of an official, A, who is a full-blooded consequentialist. Official A believes that actions are exhaustively and exclusively justified by their results. If the result turns out to be good, the action is good; if the result is bad, the action is bad as well. Official A decides to threaten a suspect with torture because he believes this is fully justified because of the intended consequences (saving, say, hundreds of innocent people). Nonetheless, he is removed from office because he has committed a moral wrong. Of course, he disagrees with that removal because he believes his decision to be right without remainder. Obviously, A is the consequentialist version of Daschner.

1 Suppose another official, B, believes that torture is absolutely pro-
2 hibited. No consequence, however beneficial, can impact his com-
3 mitment to that value. As a matter of fact, he does not even need to
4 consider them, and he remains unimpressed by all if/then scenarios.
5 By his lights, his refusal to torture is completely justified. B does not
6 torture and is removed from office because of his failure to discharge
7 his task of protecting hundreds of innocent citizens. B, it is clear, is
8 the absolutist version of Daschner.

10 In terms of ethics textbooks, A and B are contraries because they
11 represent diametrically opposed varieties of moral reasoning and val-
12 uing ("Kant versus Mill"). However, if we shift our attention from
13 their particular ways of justifying action to their attitude toward the
14 structure of the choice situation, A and B are very much alike. Both
15 deny a conflict of values. In this crucial respect, A and B differ from
16 Daschner. A and B are insensitive to the moral complexity of their
17 office, while Daschner does appreciate this. He knows that he has to
18 rely on his powers of judgment in particular situations, calibrating
19 different claims, and deciding what is best. Daschner's awareness
20 is in tune with the objective value structure of his office and, by
21 implication, of the constitution he is running. This makes it deeply
22 regrettable that he suffers the same fate as A and B. His moral
23 sensitivity ought to be considered: it should be part and parcel of
24 the integrity of public officials. It is part of their integrity because
25 systematic neglect of patterns of justification is alien to a liberal-
26 democratic constitution.

28 Citizens have an interest in an executive that keeps alive both
29 kinds of values and their justifications. The exercise of moral
30 judgment, the marshaling of the right kinds of reason, is indis-
31 pensable for this. Therefore, it is in their interest to leave those
32 officials who commit a moral wrong where they are: in office.
33 The second paradox may be stated as follows: if the citizen has an
34 interest in being governed by officials with moral integrity, and if
35 responsiveness to moral complexity is an essential part of public
36 integrity, citizens have an interest in keeping those officials in
37 office. However, they are treated in exactly the same way as those
38 who lack this responsiveness: they are removed from office—but
39 not by *citizens*.

41 In fact, the two paradoxes show that tragic choices are tragic twice
42 over. They are tragic from both perspectives. What the first para-
43 dox shows is that officials need certain virtues enabling them to
44 recognize, face, and endure moral dilemmas. Such virtues have to
45 be acknowledged as an integral part of public integrity. This part
46 of their integrity, however, takes care that they have an awareness
47 of the tragic condition in the first place. What the second paradox
48 tells us is that it is in the interest of citizens to have morally sensitive
49 officials running their constitution, but such officials face no better
50 fate than those who lack this sensitivity. This depressing result makes
51 one want to look for ways to retain officials with such virtues, even
52 if they are guilty of a moral wrong—given that the wrong was the
53 outcome of a moral dilemma and they wish to continue in office.
54 This paradox shows that this should be done by giving citizens an
55 essential part in this project: by giving them the authority to *forgive*
56 the official. In the last two decades or so, there has been something
57 of a revival, or perhaps we should say a resurrection, of the concept
58 of forgiveness in the psychological and philosophical literature (see,
59 e.g., Calhoun 1992; Enright 2001; Enright and Fitzgibbon 2000;

Govier 1999, 2002; Griswold 2007; Holmgren 1993; Lang 1994;
Murphy and Hampton 1988; North 1987; Richards 1988).

Political Forgiveness

The importance of the citizen perspective cannot be stressed too
strongly. In the first place, the account presented here is not driven
by considerations of criminal and/or restorative justice (Adams
and Balfour 2008; Digeser 2001; Griswold 2007, 39). This is not
to say that these considerations are not valid or that they should
be replaced by the reflections presented here. The introduction of
political forgiveness is not intended to substitute for legal action,
whether of a criminal or civil nature, but focuses instead on *discipli-*
nary measures. The point of a disciplinary measure is not retribution
but the improvement of the institution. It goes without saying that
improvement here includes moral improvement. Second, in a liberal
democracy, all authority exercised over citizens originates in their
(tacit or express) consent (Simmons 1981). This in itself constitutes
an important, broadly constitutional reason to at least explore the
possibilities for giving citizens the authority to forgive their officials.
This is a *political* rather than a legal take on the issue.

That is why the relevant concept of forgiveness discussed here is the
concept of political forgiveness (Digeser 2001). As noted, politi-
cal forgiveness is here taken to consist of a formal speech act with
performative force aimed at the restoration of a relationship of
trust between two parties. If a linguistic utterance or speech act has
performative force, it has practical or even moral consequences.
It *aims* to have an impact on the way things are in the world, not
just to report or describe them (Searle 1969). For instance, if I say
"John has promised to give me back the money by Monday," my
utterance does not have performative force; it just reports a fact,
namely, that John has made a promise. There is no way this report
can undo this fact. By contrast, if John himself says "I promise to
return the money by Monday," he does not describe or report a state
of affairs in the world, but he *creates* a moral obligation by the very
act of uttering them. It should be noted that John creates this moral
obligation irrespective of his intentions. Whether he likes it or not,
by uttering the sentence, John has committed himself to giving
back the money. Similarly, by saying "John has forgiven Mary," I am
reporting a state of affairs. My utterance does not aim to impact that
state of affairs. But when John states to Mary, "I forgive you," his
utterance aims to have an impact on a particular state of affairs in
the world, namely, John's relationship with Mary.

For a performative speech act to be successful, it has to satisfy
certain conditions. Thus, in an institutional context, certain speech
acts do not create social facts if the utterer does not have the author-
ity to do so. Someone who does not have the authority to bind
people in wedlock may utter the words "I hereby pronounce you
husband and wife" at a wedding ceremony. However, this person
has not created "hereby" a marriage. The conditions of satisfaction
for a successful speech act of political forgiveness are the following.
In the first place, the forgiving party has the authority to perform
that speech act, that is, to forgive. This authority, of course, is an
institutional fact with normative implications. Second, because of
the public character of political forgiveness, its utterance is subject
to procedural constraints. These constraints should ensure that the
speech act is, in principle, publicly accessible. Just as a law is not a
law before it is publicly promulgated, an act of political forgiveness

1 needs publicity in order to be an act of *political* forgiveness. Finally,
2 the subjective states and attitudes of those performing it are irrel-
3 evant to the success of the speech act (Digeser 2001, 19–21). This
4 means that those meting out political forgiveness do not need to feel
5 resentment toward the person to be forgiven. As will become clear
6 presently, this is a consequence of the essentially public character of
7 the speech act. This does not mean, however, that the state of mind
8 of the person to be politically forgiven does not matter. As the first
9 paradox shows, it does matter. Actually, it matters a lot.

10
11 Taking these conditions of satisfaction into account, we can rehearse
12 the definition of political forgiveness given earlier. As said, the con-
13 cept of political forgiveness is here treated as a publicly performed
14 performative speech act that aims to create the possibility for an
15 official to continue in office despite his or her violation of the moral
16 values embodied in the constitution. The relevance of the concept
17 of forgiveness to the public sphere has long been recognized but
18 also disputed. However, before I can proceed to formulate condi-
19 tions of political forgiveness, I have to get out of the way a daunt-
20 ing objection to the application of the notion of forgiveness to the
21 public sphere. This is an objection against condition (3) that renders
22 irrelevant subjective states of those who dispense forgiveness.

23
24 The main problem for the application of the concept in the public
25 sphere is that forgiveness seems to be an essentially psychological
26 concept. Hannah Arendt, for instance, who clearly sees the relevance
27 of forgiveness to the political, is acutely aware of its limitations
28 because she takes forgiveness to be linked to love (1958, 236–43).
29 If forgiveness is an essentially psychological concept, it natural to
30 assume that it is at home, primarily or even exclusively, in the sphere
31 of the interpersonal. Some even go so far as to deny that there is
32 such a thing as *political* forgiveness at all. In an influential study of
33 the subject, Henry Griswold argues that this categorical difference
34 between the public and interpersonal spheres allows no scope for
35 forgiveness in the former. What he prefers to call “political apology”
36 is not even an imperfect (or “nonparadigmatic”) version of forgive-
37 ness, despite the fact that they share some characteristics. Because
38 forgiveness is *conceptually* dependent on sentiment or motive, one
39 should avoid the term “forgiveness” in discourse about the public
40 realm altogether. For one thing, the world of political institutions
41 is too complex to assume that *all* parties are driven by the senti-
42 ments required to speak of forgiveness. For another, in the public
43 sphere, authority is inextricably linked to the idea of representa-
44 tion, by means of which certain individuals apologize on behalf of
45 (groups of) others. These representatives can and usually do perform
46 such speech acts unburdened by the required feelings (resentment,
47 a desire for revenge) (Griswold 2007, 59–71, 136–46; cf. Digeser
48 2001, 21).

49
50 These arguments are not as formidable as they appear. In the first
51 place, suppose a conceptual watershed separates the public and the
52 interpersonal that renders impossible the semantically responsi-
53 ble transfer of terms between these spheres. Why would the term
54 “political apology” be a better characterization of what happens in
55 politics than “political forgiveness”? Griswold argues that “[p]hrases
56 such as ‘we regret’ or ‘we apologize’ when uttered in a political con-
57 text are not reports of sentiments ... but are speech acts aiming at
58 some different purpose ... It would seem that the force of political
59 apology is independent of sentiment or motive” (2007, 141–42).

But do not the notions of apologizing and regretting similarly
originate in interpersonal, and therefore psychological, contexts?
Why, then, is it allowed to prefix “political” to “apology”? And is
it an insuperable conceptual problem to do the same with “for-
giveness”? Is not the qualification “political” meant to signal the
difference with “real” forgiveness or, for that matter, apology? If the
phrase “we regret” in a political context is not a report of senti-
ment, why should not the same go for “we forgive”? Griswold’s
semantic expulsion of forgiveness from the public realm has a
question-begging air about it.

Nonetheless, Griswold’s objection points to a deeper and more
interesting problem. If Griswold is right, then we should not allow
essentially psychological concepts to infect our discourse about pub-
lic matters. But this would mean that we have to radically overhaul
our vocabulary—if that is a realistic option at all.

From its very inception, the whole language of politics in the
Western world has been permeated with terms and expressions
that derive from nonpolitical contexts. We may talk of “friendship”
between states, of legal “persons,” and of votes of “no confidence”
in a perfectly intelligible (even if metaphorical) way. In this connec-
tion, we should observe that the same goes for the use of “trust” in
the definition of political forgiveness given earlier—a point to be
addressed in the next section. The fact that there is should perhaps
rather alert us to the question of how fundamental the psychological
element to the meaning of these terms actually is. It is so deep that
we no longer realize that all our talk of “organization” ultimately
refers to the way the “organs” of a living “organism” are arranged
so that it can optimally discharge its function(s). Organizations
still have “heads” and “members.” In social practice and theory,
metaphor is rampant—and perhaps for good reasons. At any rate,
we seem perfectly able to use and understand these terms in both
interpersonal and political contexts.

If “we apologize” and “we regret” may be speech acts that aim to
repair relationships rather than expressing sentiments, there can be
no principled objection to consider “we forgive” in the same way.
In sum, there can be no fundamental objection against the use of
the concept of *political* forgiveness in the present context. On the
contrary, it has distinct advantages.

Political Forgiveness and (Political) Trust

In general, the concept of forgiveness allows us to recognize both
the wrongness of an act or decision and the desirability of continu-
ing a relationship based on trust. As noted, trust is another origi-
nally psychological concept that has proven its use in understanding
the functioning of representative institutions. Some qualifications
should therefore be appended to the use of this term. It is not
uncommon to analyze the concept of forgiveness as an action or
attitude restoring a relationship of trust that has been put under
pressure by the commission of a wrong (Digeser 1998, 701).
Typically, such analyses focus on the psychological effort made by
the victim to quench resentment or, as it is sometimes called in the
literature, “a change of heart” (Calhoun 1992). Some claim that
forgiveness requires actual purging of resentment (Downie 1965;
Murphy and Hampton 1988, 157), others a commitment to do
so (Haber 1991, 7). Psychologically speaking, the reestablishment
of trust is very difficult and, in many cases, a bridge too far. This is

1 particularly the case if there are very direct connections between the
2 wronged party, the wrong, and the wrongdoer.

3
4 However, such an immediate relationship does not obtain in the
5 kind of situation envisaged here. The citizen body, conceived as a
6 collectivity, is not directly or immediately harmed by the violation
7 of the rights of an individual. Nevertheless, this is not so say that
8 the notion of trust does not play a role here. The role it plays is, for
9 obvious reasons, very similar to the notion of trust as employed by
10 the tradition of theorizing representative government (Pitkin 1967,
11 127–31). In many liberal democracies, especially in parliamentary
12 systems, institutionalized forms of trust are an integral element of
13 the relationship between the executive and the legislative. It is one
14 of the terms used to characterize a relationship vital to the exercise
15 of (indirect) democratic control of the executive by the citizen body.

16
17 At this juncture, the second paradox asserts itself again. Suppose a
18 minister of the interior who is responsible for torture administered
19 by a police official survives a vote of no confidence in parliament. In
20 a very real sense, this minister can be said to be politically forgiven,
21 albeit indirectly, by citizens. Yet this is mainly, or even exclusively, a
22 matter of political negotiation. Suppose, however, that the subordinate
23 official responsible for the actual decision to torture, made in
24 an insoluble conflict of values, has to resign as a result of a disciplinary
25 measure. From the citizen perspective, this is awkward. If we
26 are prepared to give responsible ministers the benefit of the doubt
27 on behalf of the citizen body, we should seriously consider whether
28 this can be done for their subordinates as well. Why not allow them
29 to reestablish the relationship of trust with the citizen body or its
30 proxy?

31
32 It is not the purpose here to detail procedures for administering for-
33 giveness for every form of liberal democratic government. This can-
34 not be done at a general level. Such procedures are, and have to be,
35 dependent on their particular legal and political contexts. However,
36 one can specify conditions that have to be satisfied by any procedure
37 for politically forgiving subordinate officials. Two constraints should
38 guide the formulation of these conditions. Obviously, the condi-
39 tions should take account of the nature of the paradoxes discussed
40 earlier. Second, they should reflect the relevant properties of the
41 concept of political forgiveness. As noted, these properties follow
42 from the citizen perspective. But they also have to respect more
43 general features of being relevantly tied to value pluralism embodied
44 in liberal democracy.

45 Conditions of Political Forgiveness

46
47 Generally speaking, political forgiveness should not be administered
48 wantonly. To prevent this, forgiving should be logically connected
49 to, and therefore derivable from, basic conflicting moral claims
50 embodied in the constitution. A crucial feature of the first paradox
51 is that the conflicts of values involved are attributable to the struc-
52 ture of the constitution. They are, so to speak, internal to what it is
53 to serve the state. Put differently, the conflict should be clearly and
54 objectively traceable to such constitutional values and not be the
55 result of the official's own faulty behavior.

56
57 Moreover, the relevant moral conflict should not be a conflict
58 between public and *private* morality. In general, incompatibilities
59 between private values (deriving from, say, the official's religious

convictions) and public values do not fall within the scope of
political forgiveness. According to certain religious views, it is, for
instance, not allowed to conclude same-sex marriages. An official
may suffer deep-ridden moral conflict because of this. However, it is
not a case that is the concern of this article—even though, perhaps,
the civil servant himself will deny that this is not a matter for others
to decide. If, on the other hand, his constitution embodies his reli-
gious creed, then it becomes another matter. This is not to say that
this other type of conflict is not real, important, painful, or in any
other way worth engaging. It is just not the type of conflict to which
political forgiveness applies.

Given these assumptions, the following conditions of forgiveness
can be formulated.

Political Forgiveness Is Not Justification

As should be clear by now, forgiving an action or decision should
be clearly distinguished from justifying it. It might be the case that,
in everyday language, the term “to excuse” is often used indiscrimi-
nately with “to justify.” In philosophical idiom, however, they are
importantly different. When I justify an action, I literally “make
right” (*iustificare*) that action. If it is justified, a normally function-
ing agent will experience no remainder. In contrast, it makes no
sense to say that I forgive your action if I mean to imply that the
action was the right thing to do. Forgiving implies an acknowl-
edgment of wrongness. This is one of the semantic features of the
concept that make it particularly suited to the recognition of value
pluralism of the liberal-democratic kind.

The procedure of forgiving, then, should make unambiguously
clear that an unjustifiable wrong has been committed. On the other
hand, it should also be evident that, given the circumstances of the
decision, there was no alternative to performing it. This means that,
as noted, the administration of political forgiveness should avoid the
impression that each and every executive violation of a right can be
forgiven by citizens. Only those wrongs that are, paradoxically, right
can be forgiven. Thus, if Daschner had made the decision to respect
the suspect's rights, in full awareness of the consequences, the same
would hold. What counts in this type of conflict is his awareness of
the dilemma.³

Political Forgiveness Should Be Public

In general, forgiving should be carefully distinguished from forget-
ting. The public acknowledgment that a wrong has been done is
therefore crucial. For this reason, an indispensable part of political
forgiving should be some kind of public ritual. We can envisage var-
ious ways of devising such a procedure. However, it is of the essence
that dispensing forgiveness requires a performative speech act that,
just like a promise, creates an institutional fact (Searle 1969, 1995,
2010). If I say “I forgive,” I do not report a state of affairs; I create
one. In the process, I commit myself to re-creating the relationship
of trust that the person I forgive has put under pressure. So, even
though citizens or their representative(s) are not obliged to forgive,
once they do, they are under an obligation to act as if this relation-
ship has been reestablished. At the same time, it does not create an
obligation for the official to remain in office.

Another reason for making forgiving a public affair is the following.
As the aftermath of the Daschner case in Germany shows, events

1 such as this serve to bring into sharp relief the very conflict that is
2 at the heart of liberal democracy. It is exactly in such cases that our
3 most cherished practices and convictions are put to the test. That is
4 why they have an important function in keeping alive the awareness
5 about both our liberal and our democratic commitments. Thus,
6 the public debate in German media stirred up at every stage of the
7 torture case brought into focus all the important considerations
8 involved in the discussion. Such public debates are tremendously
9 important. They force us to exhume the rational justifications for
10 the things we are routinely doing—preventing our practices and
11 convictions from solidifying into inarticulate dogmatism.

12 **Political Forgiveness Should Be Rationally Justified**

13 The previous condition is intimately linked to the requirement that
14 political forgiveness be adequately supported by *reasons*. But it is
15 important to make a distinction between two sets of reasons, which
16 of necessity figure in the administration of political forgiveness.

17
18
19 In the first place, the official to be forgiven will have to make public
20 the reasons leading to his or her decision. Ideally, the reasons given
21 in the procedure are identical with the reasons that actually fig-
22 ured in the decision-making process. It should be noted that these
23 include not only the reasons that actually were decisive *but also the*
24 *reasons that were overruled*. The importance of emphasizing and
25 asserting the validity of the latter set of reasons in the procedure
26 cannot be underestimated. This simply follows from the demand
27 that the audience is persuaded that the official's decision is the
28 upshot of a dilemma that is both real and experienced as such.

29
30 Of course, in every process of rendering an account lurks the danger
31 of misrepresenting actual decision making. Misrepresentation may
32 be deliberate or the result of psychological mechanisms beyond
33 conscious control. That is why it is important that witnesses are
34 heard. The fact that testimony is hard to come by if such delibera-
35 tions are the business of isolated decision makers explains the very
36 urgency of this condition. If it is taken seriously, the prospect of
37 political forgiveness exerts a disciplining force on the procedure
38 of decision making in future cases. Rational justification of deci-
39 sions *ex post facto* may constrain the repertoire of considerations fed
40 into the decision-making process. The public character of politi-
41 cal forgiveness will, to many decision makers, in itself constitute a
42 reason for marshalling adequate reasons for action. As John Stuart
43 Mill has it in his *Considerations on Representative Government*, "To
44 be under the eyes of others—to have to defend oneself to others—is
45 never more important than to those who act in opposition to the
46 opinion of others, for it obliges them to have sure ground of their
47 own. ... Publicity is inappreciable, even when it does no more than
48 prevent that which can by no possibility be plausibly defended—
49 than compel deliberation, and force every one to determine, before
50 he acts, what he shall say if called to account for his actions" (1875,
51 84). The chance that one will be politically forgiven may press
52 individual decision makers to seek advice, to engage in collective
53 deliberation—if the circumstances of the case allow it.

54
55 Second, the decision to politically forgive will *itself* have to be
56 publicly supported by adequate reasons. The case must be compel-
57 ling. This is important also for subsequent cases. In this way, the
58 forgiving institution will gradually build a kind of repertoire of
59 deliberative reasoning involved in executive decision making. This

repertoire, in turn, may serve to provide deliberative reasons for
decision making in the relevant type of cases in the future. However,
this should not go so far as to constitute a kind of *stare decisis*.
Previous decisions should not bind future decisions. This is to stress
the singularity of the case. Forgiving should retain its exceptional
character. For this reason, the selection of cases qualifying for the
procedure, and therefore access to the procedure should be carefully
regimented.

60 **Political Forgiveness Should Be Preceded by Sincere Public** 61 **Apology Directed to Citizens**

62 Typically, apology is the correlative of forgiveness. In an inter-
63 personal context, apology might not be a necessary condition of
64 forgiving. In the context of private life, it is perfectly conceivable
65 that one forgives *in foro interno*, while the wrongdoer shows no sign
66 of contrition. This may even be considered a mental act of great
67 nobility or charity. However, in a public procedure, it is important
68 that both sides perform their proper speech acts and that they do
69 so in the right order. To return to a point made earlier, one could
70 be tempted to see apology and forgiveness as correlatives in a
71 public or political context: no political forgiveness without politi-
72 cal apology. But there is an interesting and crucial asymmetry. In
73 the type of case under consideration, the apologizer (the official)
74 is an individual who is not represented by anyone else. His or her
75 public apology has to be an expression of genuine regret, guilt, or
76 shame. As noted, these feelings are part of the "remainders" that
77 are the residues of decisions in moral dilemmas. At the other end
78 of the line, those who forgive do represent the citizenry. In their
79 case, forgiveness need not be an expression of (backward-looking)
80 sentiments.

81 **Conclusion**

82 As noted in the introduction, the ambition of this article is mainly
83 diagnostic. I have attempted to flesh out conditions of political
84 forgiveness. A lot more effort is needed to translate these conditions
85 into workable procedures and institutions. Another task lying ahead
86 is the working out of the relationship between political forgiveness
87 and forms of retributive and restorative justice. This is a technical
88 task that cannot be undertaken here. But then again, the focus here
89 is on the political dimension of forgiveness. Moreover, a serious
90 investment has to be made in thinking of ways to prevent misuse of
91 political forgiveness. As is the case with all political and administra-
92 tive institutions, procedures for administering political forgiveness
93 will not be impervious to manipulation. Yet this in itself should
94 not be an argument to abandon the project; rather, it should be an
95 incentive to think harder.

96
97 Forgiving public officials who make themselves guilty of a moral
98 wrong so that they can remain in office is a controversial idea.
99 However, in this article, it is argued that under certain condi-
100 tions, it might be worth taking it seriously. There is something
101 intolerably wrong with our theories about public integrity if we
102 continue to remove those officials from public service who least
103 deserve it. Of course, it would be an illusion to believe that we
104 can expel all contingency from our moral universe. At any rate,
105 this does not mean that we should not try to reduce the play-
106 ground of blind fate. Tragedies may end with the demise of the
107 hero, but the careers of public officials need not be ruined by
108 tragic choices.

Notes

1. For a discussion of the implications of this convention for the Abu Ghraib case, see Adams, Balfour, and Reed (2006).
2. The fact that versions of this conflict appear in the works of preliberal thinkers can be taken as evidence for this deeper source of the conflict. An example that is not proper to liberal democracy is one version of the so-called problem of dirty hands (Coady 2008; Kleinig 2007; Meisels 2008; Nagel 1972, 1978; Shue 1977; Sutherland 2000; Thompson 1987; Walzer 1973, 2004; Weber 1992). In essence, this problem is already dealt with by Augustine in his *City of God* and, of course, Machiavelli, most sharply in the *Discourses*.
3. An anonymous reviewer suggested that Daschner should have been aware of "the need for more of a public process in deciding what to do, which may well have led to a different decision." Even if this were the case, that *different* decision still would have not provided a way out of the dilemma. That is the nasty thing about this kind of conflict of value. However, the way the public procedure of forgiving is organized should take care that decision makers will want to make sure that they have witnesses who will later be capable of reporting the actual course of the deliberations. So even if I have reservations in agreeing with the reviewer that it is *unethical* to decide alone, I do believe it is *imprudent* to do so.

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